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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,726	07/17/2003	Blake Johnson	P-9275-US	1579

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EXAMINER

HAFIZ, TARIQ R

ART UNIT PAPER NUMBER

3623

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/621,726

Applicant(s)

JOHNSON ET AL.

Examiner

Linda Krisciunas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/13/05, 1/19/05</u> | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The following is a Non-Final office action in response to the restriction election filed August 29, 2006. Claims 1-16 are pending and claims 17-20 are withdrawn.

Since the Applicant's election with traverse was made without a persuasive argument, it is interpreted as being made without traverse and the restriction is made final.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities: The third line of the claim has a typo, the word should be "policies" not "polices". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The fourth line of claim 1 contains the term "cost/risk". This is unclear and has been interpreted by the Examiner to mean "cost and risk". Any claim that depends from this claim would contain the same error.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over “A *Four step methodology for using simulation and optimization technologies in strategic supply chain planning*” by Hicks, Proceedings of the 1999 Winter Simulation Conference, 1999; hereinafter referred to as “Hicks”.

As per claims 1, 5, 8, 13, and 15, Hicks teaches a sourcing opportunity utilization policies engine configured for providing sourcing opportunity utilization policies (page 1217, column 1, paragraphs 3-5: where the internal and external supply chain with suppliers and customers which act as a series of objects that interact to provide a given function. The elements or objects make up the structure, whereby elements include products, sites, shipments, transportation assets etc. How these objects interact is governed by the policy or rules, where strategic decisions and planning activities involve modifications to the policies. The Four Step Methodology is a policy optimization engine as it provides means for optimizing the objects and rules to provide the most beneficial policy option.); a cost/risk generator configured for computing sourcing performance by utilizing the sourcing opportunity utilization policies engine (page 1217, column 2, paragraph 4, where the system minimizes cost issues and supports management constraints. The mathematical model evaluates total cost and can yield different cost outputs as dictated by the structure and constraints.); and an optimization engine

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configured for comparing the sourcing performance from the cost/risk generator to at least one objective for business performance over time and across potential future circumstances to determine an optimal sourcing opportunity utilization policy (page 1217, column 1, paragraph 5: The Four Step Methodology is a policy optimization engine as it provides means for optimizing the objects and rules to provide the most beneficial policy option. See also page 1218, column 2, paragraphs 2-3, where the user defines the rules or policies which govern how inventory is managed and the network simulation uses time related demand data from the model thereby determining policy for performance over time and across potential future circumstances as noted in step 3 on page 1219. Policy optimization uses a simulation-optimization model to determine the inventory, sourcing and transportation policies which should be adopted from a strategic level in the network design.). Hicks does not explicitly teach risk. Official notice is taken that risk would be part of management constraints and/or strategic decisions, as taught by Hicks, and it is well known that companies try to minimize or avoid risk and balance risk with the cost to avoid or minimize risk. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the supply chain optimization system of Hicks with a risk feature to provide means for thoroughly evaluating all supply chain decisions.

As per claims 2 and 9, Hicks teaches the sourcing opportunity utilization policies engine is further configured to develop the sourcing opportunity utilization policies (page 1219, column 2, paragraph 2 where policy optimization is used to produce valuable recommendations for policy improvement and better supply chain designs.).

As per claims 3 and 4, Hicks teaches the sourcing opportunity utilization policy engine is further configured to allow revision to a set of feasible sourcing opportunity policies (page 1219, column 2, paragraphs 3-6 where step four: design for robustness where the system verifies that the policies will operate under a wide variety of situations and where there is the evaluation of the results of changing some of the external data assumptions. This is equivalent to allowing revision to a set of feasible sourcing policies as it performs an identical function in substantially the same manner with substantially the same results.).

As per claims 6 and 12, they contain the same limitations as claims 3 and 4 and are therefore subject to the same art rejection(s).

As per claim 7, it contains the same limitations as claims 1 and 6 and is therefore subject to the same art rejection(s).

11. Claims 10-11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over "*A Four step methodology for using simulation and optimization technologies in strategic supply chain planning*" by Hicks, Proceedings of the 1999 Winter Simulation Conference, 1999; hereinafter referred to as "Hicks", in view of Huang et al (US 6,151,582).

As per claims 10 and 14, Hicks does not explicitly teach a list of key terms. Huang teaches that it is known to provide a listing of key terms for sourcing opportunities from which a user may select (See Figure 43, where there is a list of sourcing opportunities as depicted by the list in the upper right side of the Figure, including Venture, Caldor, Ames etc.). Huang is an analogous art as it also teaches

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about decision support systems for supply chains. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the supply chain system of Hicks with the list feature of Huang to provide a more user-friendly means of selecting key terms for analysis.

As per claim 11, Hicks does not explicitly teach a range. Huang teaches that it is known to identify a range of prospective sourcing opportunities (See Figure 52 which depicts a range of accounts which represent sourcing opportunities, including field account, national account etc.). Huang is an analogous art as it also teaches about decision support systems for supply chains. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the supply chain system of Hicks with the range feature of Huang to provide a more user-friendly means of viewing and selecting key terms for analysis.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following art also teaches about supply chain optimization: Dietrich et al (US 5,630,070), Ettl et al (US 5,946,662), Sohner (US 6,477,660), Fried et al (US 6,546,303), Cheng et al (6,970,841), Singh et al (US 7,080,026), "Austin Ventures and AV Labs Announce Series A funding for ForwardVue Technologies Inc; to use funding to develop enterprise risk optimization software solution for Fortune 1000 Companies", Business Wire, July 10, 2001; "ForwardVue Technologies and Capstone Global Energy LLC form strategic partnership; companies partnering to provide risk

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software solution and consulting services", Business Wire, July 17, 2001; "Discrete optimization methods and their role in the integration of planning and scheduling" by Grossman et al, Proceedings of the 6<sup>th</sup> International Conference on Chemical Process Control, 2001; "Modeling supply chain dynamics: a multiagent approach" by Swaminathan et al, Decision Sciences, Summer 1998; "Distributed supply chain simulation in a DEVS/CORBA execution environment" by Zeigler et al, Proceedings of the 1999 Winter Simulation Conference, 1999; "Experience using the IBM supply chain simulator" by Bagchi et al, Proceedings of the 1998 Winter Simulation Conference, 1998; "ASP-based software delivery: a real options analysis" by Techopitayakul et al, white paper for Management Science and Engineering Department, July 2001; "Spark spread options and the valuation of electricity generation assets" by Deng et al, IEEE, 1999; "Exotic electricity options and the valuation of electricity generation and transmission assets" by Deng et al, Decision Support Systems, 2001; and "Supply chain vs supply chain: using simulation to compete beyond the four walls" by Archibald et al, Proceedings of the 1999 Winter Simulation Conference, 1999.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Krisciunas whose telephone number is 571-272-6931. The examiner can normally be reached on Monday through Friday, 6:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LMK

*LMK*  
*September 1, 2006*

*Romain Janty*  
*Primary Examiner*  
*Art Unit 3623*